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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/117,838	08/12/1998	OLEG LLIICH EPHSTEIN		4128

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EXAMINER	
PESELEV, ELLI	
ART UNIT	PAPER NUMBER
1623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/117,838	EPHSTEIN, OLEG LLIICH	
	Examiner	Art Unit	
	Elli Peselev	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17,19-23 and 25-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17,19-23 and 25-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claims 29-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "Atropini Sulfati C30" (claim 29), "aciolum salicylicum" (claim 30), "prednizolon Prednizolon in 1200 dissolving) Cortex, C12" (claim 31), "Insulinum C30" (claim 32), "Zincum Metallicum" (claim 33) and "Sarcolysinum 200" (claim 34) are not art recognized terms.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 17, 19-23 and 25-28 and 35-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jonsson et al (U.S. Patent No. 4,292,324).

Jonsson et al disclose a method of making a pharmaceutical composition by combining one or more active substances and a method of treatment with said composition. Since, the active substance and a homeopathic substance encompassed

by the present claims are seen to be the same substance in different concentrations, the claimed methods and compositions are encompassed by the reference's methods andcompositions. In addition, if there are any differences between the claimed methods and compositions and the prior art's methods and compositions, the differences would appear to be minor in nature and the claimed methods and compositions, which fall within the scope of the prior art's methods and compositions, would have been prima facie obvious from the said reference's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 29 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cohen et al (U.S. Patent No. 3,901,967).

Claim 29 is directed to a medicine comprising as the active substance a therapeutic dose of atropine sulfate and Apropini Sulfate C30 produced by consecutive dissolving and shaking of the atropine. Cohen et al disclose a pharmaceutical composition comprising atropine sulfate. Since dissolving and shaking atropine produces nothing more than atropine, the claimed composition reads on nothing more than a pharmaceutical composition comprising atropine sulfate disclosed by Cohen et al. In addition, if there are any differences between the claimed composition and the prior art composition, the differences would appear to be minor in nature and the claimed composition, which falls within the scope of the prior art's composition, would have been prima facie obvious from the said prior art's disclosure, to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 30 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sirany (U.S. Patent No. 4,987,127).

Claim 30 is directed to a medicine comprising as an active substance acetylsalicylic acid and acidum salicylicum obtained by impregnation of milk sugar with a solution of acidum salicylicum. Sirany discloses a pharmaceutical composition comprising acetylsalicylic acid. Since acidum salicylicum is not seen to be structurally different from acetylsalicylic acid, the claimed composition reads on the composition disclosed by Sirany. In addition, if there are any differences between the claimed composition and the prior art composition, the differences would appear to be minor in nature and the claimed composition, which falls within the scope of the prior art's composition, would have been prima facie obvious from the said reference's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 31 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nobile (U.S. Patent No. 3,134,718).

Claimed 31 is directed to a medicine comprising as an active substance Prednizolon and Prednizolon produced by dilution of Prednizolon. Nobile discloses a pharmaceutical composition comprising Prednizolon. Since dilution of Prednizolon produces nothing more than Prednizolon, the claimed composition reads on the prior art's composition. In addition, if there are any differences between the claimed composition and the prior art's composition, the differences would appear to be minor in nature and the claimed composition, which falls within the scope of the prior art's

disclosure, would have been prima facie obvious from the said prior art's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 32 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Massey et al (U.S. Patent No. 4,839,341).

Claim 32 is directed to a medicine comprising as an active substance insulin insulinum C30 which is produced by a homeopathic method from insulin. Massey et al disclose a pharmaceutical composition comprising insulin. Since insulinum C30 is not seen to be structurally different from insulin, the claimed composition reads on the prior art's composition. In addition, if there are any differences between the claimed composition and the prior art's composition, the differences would appear to be minor in nature and the claimed composition, which falls within the scope of the prior art's composition, would have been prima facie obvious from the said prior art's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 33 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jonsson et al (U.S. Patent No. 4,292,324).

Claim 33 is directed to a medicine comprising as an active substance paste from zinc and Zincum Metallicum produced from zinc. Jonsson et al disclose a pharmaceutical composition comprising zinc. Since Zincum Metalicum is not seen to be different from zinc, the claimed composition reads on the prio art's composition. In addition, if there are any differences between the claimed composition and the prior

art's composition, the differences would appear to be minor in nature and the claimed composition, which falls within the scope of the prior art's composition, would have been prima facie obvious from the said reference's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Claim 34 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Albert Stock John et al (U.S. Patent No. 3,032,584).

Claim 34 is directed to a medicine comprising as an active substance Sarcolysin and Sarcolysinum 200 produced from Sarcolysin. Albert Stock John et al disclose a pharmaceutical composition comprising Sarcolysin. Since Sarcolysinum 200 is not seen to be structurally different from Sarcolysin, the claimed composition reads on the prior art's composition. In addition, if there are any differences between the claimed composition and the prior art's composition, the differences would appear to be minor in nature and the claimed composition, which falls within he scope of the prior art's composition, would have been prima facie obvious from the said prior art's disclosure to a person having ordinary skill in the art at the time the claimed invention was made.

Applicant's arguments filed December 18, 2006 have been fully considered but they are not persuasive.

Applicant contends that the active substance produced from an initial material and a potentiating substance produced from a homeopathic method from the same material are totally different substances, they have different properties, they act in a different way, and when combined, they produce a highly efficient medication with

completely new properties that has never been known before. This argument has not been found persuasive. On page 3 of the specification, lines 3-6, it is stated that it "is preferred that the active medicinal substance in therapeutic dose and potentiated medicinal preparation admixed thereto has similar (identical) medicinal form". Also on page 3 of the specification, lines 12-14, it is stated that potentiated medicinal substance has initial chemical formula identical to the medicinal substance. It is not understood how two compounds having identical chemical formula can be totally different substances , have different properties and act in totally different ways. Further, applicant has not provided any data showing that the combination produces a highly efficient medication with completely new properties that has never been known before.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elli Peselev whose telephone number is (571) 272-0659. The examiner can normally be reached on 8.00-4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elli Peselev

ELLI PESELEV
PRIMARY EXAMINER
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